

9.0 OTHER IMPLEMENTATION ITEMS

9.1 Coordination

In this watershed public awareness and involvement will be crucial to the successful implementation of these plans and improved water quality. Staff from the SWQB will work with stakeholders to provide the guidance in developing the Watershed Management Plan (WMP). The WMP is a written plan intended to provide a long-range vision for various activities and management of resources in a watershed. It includes opportunities for private landowners and public agencies in reducing and preventing impacts to water quality. This long-range strategy will become instrumental in coordinating and achieving constituent levels consistent with the New Mexico State Standards, and will be used to prevent water quality impacts in the watershed.

SWQB staff will assist with any technical assistance such as selection and application of BMPs needed to meet WMP goals. Implementation of BMPs within the watershed to reduce pollutant loading from nonpoint sources will be on a voluntary basis. Reductions from point sources will be addressed in revisions to discharge permits. Stakeholder public outreach and involvement in the implementation of this TMDL will be ongoing. Stakeholders in this process will include SWQB, and other members of the WMP. With assistance from SWQB, stakeholders are encouraged to develop watershed groups in order to identify the following components of a successful WMP:

- The public outreach method(s) and structure that will be used to engage and maintain public and governmental involvement including local, state, federal, and tribal governments. This should include a process for cross-agency coordination and a process for continuous public involvement.
- Any monitoring and evaluation activities based on water quality goals and outcomes needed to refine the problems or assess progress towards achieving water quality goals. If monitoring is required to clarify/refine the water quality problems and sources, it should be done following a specific plan including concise goals and targeting, specific performance measures and a firm end date.
- The specific water quality problems to be addressed, the sources of pollution and the relative contribution of sources. WMPs should support a comprehensive approach to addressing all nonpoint sources in a targeted watershed. The WMP should also assure that water quality benefits are demonstrated in the short term. One mechanism that can be used in such a strategy is having individuals serving as watershed coordinators/evaluators.
- A blueprint of the actions to be taken and desired water quality goals and outcomes, i.e., implementation of pollution control and natural resource restoration measures. This may include implementation of tasks identified in source water protection programs and/or actions to implement TMDLs. This should include a discussion within the WMP as to how all program components will be applied (technical, financial and educational) to the water quality program.

- A schedule for implementation of needed restoration measures and identification of appropriate lead agencies to oversee implementation, maintenance, monitoring and evaluation.
- Funding needs to support the implementation and maintenance of restoration measures. This should include funding that would be available through federal assistance programs, state funds and other resources.

9.2 Time Line

The following table details the proposed implementation timeline (Table 9.1).

Table 9.1 Proposed Implementation Timeline

Implementation Actions	Year 1	Year 2	Year 3	Year 4	Year 5
Public Outreach and Involvement	X	X	X	X	X
Establish Performance Targets	X				
Secure Funding	X		X		
Implement Management Measures (BMPs)		X	X		
Monitor BMPs		X	X	X	
Determine BMP Effectiveness				X	X
Re-evaluate Performance Targets				X	X

9.3 Clean Water Act §319(h) Funding Opportunities

The Watershed Protection Section of the SWQB provides USEPA §319(h) funding to assist in implementation of BMPs to address water quality problems on reaches listed on the §303(d) list or which are located within Category I Watersheds as identified under the Unified Watershed Assessment of the Clean Water Action Plan. These monies are available to all private, for profit and nonprofit organizations that are authenticated legal entities, or governmental jurisdictions including: cities, counties, tribal entities, Federal agencies, or agencies of the State. Proposals are submitted by applicants through a Request for Proposal (RFP) process and require a non-federal match of 40% of the total project cost consisting of funds and/or in-kind services. Further information on funding from the Clean Water Act §319 (h) can be found at the New Mexico Environment Department website: <http://www.nmenv.state.nm.us>.

9.4 Assurances

New Mexico's Water Quality Act (Act) does authorize the Water Quality Control Commission to "promulgate and publish regulation to prevent or abate water pollution in the state" and to require permits. The Act authorizes a constituent agency to take enforcement action against any person who violates a water quality standard. Several statutory provisions on nuisance law could also be applied to nonpoint source water pollution. The Water Quality Act also states in §74-6-12(a):

The Water Quality Act (this article) does not grant to the commission or to any other entity the power to take away or modify the property rights in water, nor is it the intention of the Water Quality Act to take away or modify such rights.

In addition, the State of New Mexico Surface Water Quality Standards (see Section 1100E and Section 1105C) (NMWQCC 1995b) states:

These water quality standards do not grant the Commission or any other entity the power to create, take away or modify property rights in water.

New Mexico policies are in accordance with the federal Clean Water Act §101(g):

It is the policy of Congress that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated or otherwise impaired by this Act. It is the further policy of Congress that nothing in this Act shall be construed to supersede or abrogate rights to quantities of water which have been established by any State.

Federal agencies shall co-operate with State and local agencies to develop comprehensive solutions to prevent, reduce and eliminate pollution in concert with programs for managing water resources.

New Mexico's Clean Water Action Plan has been developed in a coordinated manner with the State's 303(d) process. All Category I watersheds identified in New Mexico's Unified Watershed Assessment process are totally coincidental with the impaired waters lists for 1996 and 1998 as approved by EPA. The State has given a high priority for funding, assessment, and restoration activities to these watersheds.

The New Mexico Water Quality Act authorizes the Water Quality Commission to "promulgate and publish regulations to prevent or abate water pollution in the state" and to require permits. Several statutory provisions on nuisance law could also be applied to nonpoint source water pollution. As a constituent agency, NMED has the authority under Chapter 74, Article 6-10 NMSA 1978 to issue a compliance order or commence civil action in district court for appropriate relief if NMED determines that actions of a "person" (as defined in the Act) have resulted in a violation of a water quality standard. NMED nonpoint source water quality management program has historically strived for and will continue to promote voluntary

compliance to nonpoint source water pollution concerns by utilizing a voluntary, cooperative approach. The State provides technical support and grant monies for implementation of BMPs and other NPS prevention mechanisms through §319 of the Clean Water Act. Since portions of this TMDL will be implemented through NPS control mechanisms, the New Mexico Watershed Protection Program will target efforts to this and other watersheds with TMDLs. The Watershed Protection Program coordinates with the Nonpoint Source Taskforce. The Nonpoint Source Taskforce is the New Mexico statewide focus group representing Federal and State agencies, local governments, tribes and pueblos, soil and water conservation districts, environmental organizations, industry, and the public. This group meets on a quarterly basis to provide input on the §319 program process, to disseminate information to other stakeholders and the public regarding nonpoint source issues, to identify complementary programs and sources of funding, and to help review and rank §319 proposals.

In order to obtain reasonable assurances for implementation in watersheds with multiple landowners, including Federal, State and private land, NMED has established Memoranda of Understanding (MOUs) with various Federal agencies, in particular the Forest Service and the Bureau of Land Management. MOUs have also been developed with other State agencies, such as the New Mexico State Highway and Transportation Department. These MOUs provide for coordination and consistency in dealing with nonpoint source issues.

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The time required to attain standards for all reaches is estimated to be approximately 10-20 years. This estimate is based on a five-year time frame implementing several watershed projects that may not be starting immediately or may be in response to earlier projects. Stakeholders in this process will include SWQB, and other members of the Watershed Restoration Action Strategy. The cooperation of the Upper Rio Chama watershed stakeholders will be pivotal in the implementation of these TMDLs as well.